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| TRANSMITTAL LETTER (General - Patent Pending) | Docket No. 200-0798 |
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In Re Application Of: **Bernd Gottselig et al.**

| Serial No. | Filing Date | Examiner | Group Art Unit |
|---|---|---|---|
| 09/682,988 | November 5, 2001 | I. Borissov | 3629 |

Title: **METHOD AND SYSTEM OF RESTRICTED SUBSTANCE MANAGEMENT AND RECYCLING**

TO THE COMMISSIONER FOR PATENTS:

Transmitted herewith is:

**Reply Brief (in triplicate).**

in the above identified application.

- ☒ No additional fee is required.
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Daniel H. Bliss

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Dated: October 12, 2004

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cc:

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**
**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Art Unit: 3629

Examiner: I. Borissov

Applicant(s): Bernd Gottselig et al.

Serial No.: 09/682,988

Filing Date: November 5, 2001

For: METHOD AND SYSTEM OF RESTRICTED SUBSTANCE MANAGEMENT AND RECYCLING


**REPLY BRIEF**

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Reply Brief is directed to new points of argument raised in the Examiner's Answer dated August 12, 2004 for the above-identified application. On page 8 of the Examiner's Answer, the Examiner argues that a vehicle manufacturing environment, specifically registering restricted substances and recycle content data of vehicle supplier parts into a computer system of a vehicle manufacturer are differences only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. In addition, on page 11, the Examiner argues that the motivation to combine Fukatsu et al. and Farmer et al. would be enhancing the analytic process of determining environmental content of parts supplied in order to determine the compliance with the environmental laws and regulations. Further, on page 12, the Examiner argues that, in claim 17, there is no requirement that both restricted substances and recycle content data of a product be reviewed.

**CERTIFICATE OF MAILING**: (37 C.F.R. 1.8) I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service with sufficient postage as First Class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on October 12, 2004, by Daniel H. Bliss.

Applicant respectfully disagrees with the Examiner as to the above arguments. As to the first argument, the Examiner argues that a vehicle manufacturing environment, specifically registering restricted substances and recycle content data of vehicle supplier parts into a computer system of a vehicle manufacturer are differences only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. MPEP 2106 discusses assessment of a claimed computer-related invention for compliance with 35 U.S.C. § 102 and 103. In Section VI of the MPEP 2106, it states that "[i]f the difference between the prior art and the claimed invention is limited to descriptive material stored or employed by a machine, Office personnel must determine whether the descriptive material is functional descriptive material or nonfunctional descriptive material, as described supra in paragraphs IV.B.1(a) and IV.B.1(b)." Section IV B.1.(a) is related to functional descriptive material: data structures representing descriptive material per se or computer programs representing computer listings per se and Section IV B.1.(b) is related to nonfunctional descriptive material. However, MPEP 2106 Section IV and VI are inapplicable to the present application because they relate to a 35 U.S.C. § 101 analysis..

Assuming arguendo that MPEP 2106 applies, claim 1 claims the present invention as a computer method of restricted substance management and recycling in a vehicle manufacturing environment. The method includes the steps of inputting restricted substances and recycle content data of parts supplied by a vehicle supplier for a vehicle into a computer system of a vehicle manufacturer. The method also includes the steps of reviewing the inputted data and determining parts with banned or recycled content or substances over predetermined thresholds. The method further includes the steps of reporting the determined parts to the vehicle supplier and the vehicle manufacture.

Claim 1 has functional descriptive material because the step of "inputting" is for restricted substances and recycle content data of parts for a vehicle that a vehicle supplier inputs

into a computer system of a vehicle manufacturer. Claim 1 also has functional descriptive material because the step of "determining" is for parts with banned or recycled content or substances over predetermined thresholds. Claim 1 further has functional descriptive material because the step of "reporting" is for the determined parts to the vehicle supplier and the vehicle manufacture. As such, the functional descriptive material alters how the process steps are to be performed. Contrary to the Examiner, the recitation of vehicle supplier parts into a computer system of a vehicle manufacturer is not descriptive material, but is narrowing limitations for claiming the invention of a method of restricted substance management and recycling in a vehicle manufacturing environment. Therefore, it is respectfully submitted that the Examiner has misinterpreted MPEP Section 2106 and the rejection under 35 U.S.C. § 103 is clearly wrong.

As to the second argument, the Examiner argues that the motivation to combine Fukatsu et al. and Farmer et al. would be enhancing the analytic process of determining environmental content of parts supplied in order to determine the compliance with the environmental laws and regulations. There is no factual basis in the references relied upon which supports the Examiner's argument.

A rejection based on 35 U.S.C. § 103 must rest on a factual basis, with the facts being interpreted without hindsight reconstruction of the invention from the prior art. In making this evaluation, the Examiner has the initial duty of supplying the factual basis for the rejection he advances. He may not, because he doubts that the invention is patentable, resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in the factual basis. See In re Warner, 379 F.2d 1011, 154 U.S.P.Q. 173 (C.C.P.A. 1967).

Fukatsu et al. '666 discloses a system for providing product environment information in which a hazardous substance registration system in a product environmental specification management system can register hazardous substances (regulation data) in a

product hazardous chemical substance master data base. In Fukatsu et al. '666, the hazardous substance registration system 11 can register hazardous substances (regulation data) in a product hazardous chemical substance master data base 12, but not both restricted substances and recycle content data of vehicle supplier parts into a computer system of a vehicle manufacturer. Farmer et al. '965 merely discloses a hazard communications system including creating a hazard communication document by entering material information into a system, processing entered information through an authoring module where hazard information is decompiled, associated with the material information, and recompiled to provide hazard information, and disseminating such hazard information. In Farmer et al. '965, the system creates a hazard communication document by entering material information into the system, but not both restricted substances and recycle content data of vehicle supplier parts into a computer system of a vehicle manufacturer. Further, neither Fukatsu et al. '666 nor Framer et al. '965 discloses sending a non-compliance or compliance notification to the supplier and vehicle manufacturer if there are parts or no parts with banned or recycled content or substances over predetermined thresholds.

The Examiner, based on speculation, states that Fukatsu et al. and Farmer et al. would be enhancing the analytic process of determining environmental content of parts supplied in order to determine the compliance with the environmental laws and regulations. The Examiner's stated conclusion of obviousness is based on speculation and hindsight reconstruction of the claimed invention. One of ordinary skill in the art would not look to Fukatsu et al. '666 or Farmer et al. '965 for guidance because neither reference enters material information for both restricted substances and recycle content data of vehicle supplier parts into a computer system of a vehicle manufacturer. The CAFC has held that "[t]he mere fact that prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification". In re Gordon, 733 F.2d 900, 902, 221 U.S.P.Q.

1125, 1127 (Fed. Cir. 1984). The Examiner has failed to show how the prior art suggested desirability of modification to achieve Applicant's invention. The claimed computer method of restricted substance management and recycling in a manufacturing environment replaces a labor-intensive, fax-based reporting process, facilitates the collection of valuable information on recycled content in order to meet corporate targets and regulatory requirements, and improves the identification, reduction, and elimination of certain hazardous substances in dimensional parts. There is no suggestion to modify the references to obtain this combination and the claimed combination is not obvious to one skilled in the art. Therefore, it is respectfully submitted that the rejection under 35 U.S.C. § 103 is clearly wrong.

As to the third argument, the Examiner argues that, in claim 17, there is no requirement that both restricted substances and recycle content data of a product be reviewed. Contrary to the Examiner's opinion, claim 17 recites the step of "inputting data of restricted substances and recycle content of parts supplied by a vehicle supplier for a vehicle into a computer system of a vehicle manufacturer". Claim 17 also recites the step of "reviewing the inputted data and determining parts with banned or recycled content or substances over predetermined thresholds". Clearly, claim 17 requires that both restricted substances and recycle content data of a product be reviewed and that a determination be made as to parts with banned or recycled content or substances over predetermined thresholds. Both claims 1 and 18 have this requirement. Therefore, it is respectfully submitted that the Examiner has misinterpreted claims 1, 17, and 18 and the rejection under 35 U.S.C. § 103 is clearly wrong.

Accordingly, it is respectfully requested that the rejection of the pending claims be reversed and that the claims pending in the present application be allowed.

Respectfully submitted,

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